

Re Point V.

In the present opinion, reference is made to the following documents:

- D1: US 6 150 932 A (KENUE SURENDER KUMAR) 11/21/2000 (2000-11-21)
D2: EP 0 549 909 A (MITSUBISHI ELECTRIC CORP) 07/07/1993 (1993-07-07)
D3: US 5 410 304 A (HAHN HORST ET AL) 04/25/1995 (1995-04-25)
D4: US 5 684 473 A (NISHIMURA TAKAO ET AL) 11/04/1997 (1997-11-04)
D5: EP 0 443 644 A (GEN MOTORS CORP) 08/28/1991 (1991-08-28)
D6: FR 2 427 656 A (DAIMLER BENZ AG) 12/28/1979 (1979-12-28)

1 NOVELTY (Article 33(2) PCT)

1.1 The present patent application does not satisfy the requirements of Article 33(1) PCT, because the subject matter of **Claim 1** is not novel within the meaning of Article 33(2) PCT.

Document D1 discloses (the references in parentheses relate to this document):

A method for warning the driver of a motor vehicle, an object detector (see Figure 1, CCD camera 10 and radar sensor 16) being provided, which detects preceding vehicles and ascertains their distance and relative velocity with respect to the host vehicle and supplies these to an evaluation device (column 4, lines 36-50), the evaluation device ascertaining, on the assumption that the preceding vehicle performed a deceleration (*closing rate* $\neq 0$ see Fig.3-302) and as a function of the driver's reaction time (T_r) and the host vehicle's

maximum possible vehicle deceleration (A_h), whether a collision with the preceding vehicle would be avoidable (Fig. 3-336) and it being possible to activate a driver warning device (Fig. 3-340) in the event that a collision is unavoidable.

In D1, the deceleration of the preceding vehicle is calculated by the parameter "closing rate", which, if it is positive, signifies that there is an approach or a deceleration. In this case safety or warning distances (D1, D2 and DIST) are calculated, which define the maximum safe distance between the two vehicles, and the unavoidability of a collision is analyzed by the comparison between the actual distance (R) and the calculated parameter (DIST).

Since the method steps of D1 and A1 are equivalent and the same values (relative velocity, reaction time etc.) are considered for determining the unavoidability of collision, Claim 1 is not novel under Article 33(2) PCT.

All features of Claim 1 are likewise known from D2, where the unavoidability of a collision is also determined by a minimum safety distance (R_f) between the two vehicles. See column 3, line 36 to column 6, line 17.

- 1.2 Since **system claim 9** merely defines the device corresponding to the method of Claim 1, the subject matter of Claim 9 can also not be regarded as novel (Article 33(2) PCT)
- 1.3 Dependent **Claims 2-5, 8 and 10** also do not fulfill the requirements of Article 33(2) PCT because all of the relevant features are known from D1.

Claims 2-4: see column 6, lines 12-17.

Claims 5, 8 and 10: column 3, lines 57-60.

2 INVENTIVE STEP (Article 33(3) PCT)

Claims 6, 7, 11 and 12 describe various possibilities how the driver can be warned about the unavoidable collision, by a reversible belt tensioner or by a brief triggering of the deceleration means.

The mentioned features therefore constitute only one of several obvious possibilities, from which one skilled in the art, without inventive contribution, would select according to the circumstances in order to achieve the set objective. From the field of driver warning there already exist multiple warning methods and systems which one skilled in the art could utilize in the claimed method and system without an inventive step. For example, the execution of a "driver warning by a brief triggering of the deceleration means" is already known from D4 (see Figure 2, *brake actuator* 19) and D6 (page 4, lines 23-32).

Claims 6, 7, 11 and 12 are therefore not inventive under to Article 33(3) PCT.

3. Incompatible with the requirements of Rule 5.1 a) ii) PCT, neither the relevant related art disclosed in document D1 nor this document are indicated in the specification.